Government of
Saskatchewan

A Child Should Know . . .

Review of Rights and Responsibilities for Children and Youth

Reprinted: January 2003

December 15, 1999

SASKATCHEWAN
HUMAN RIGHTS COMMISSION

8th Floor, Sturdy Stone Bldg.
122 - 3rd Avenue North
Saskatoon, SK S7K 2M6
Tel: (306) 933-5952
Telewriter: (306) 373-2119
Fax: (306) 933-7863
Toll Free: 1-800-667-9249
(in Saskatchewan only)
E-mail:
shrc@justice.gov.sk.ca
Web site:
http://www.gov.sk.ca/shrc/

Dear Reader:

On behalf of the Saskatchewan Human Rights Commission, I commend the Ministers responsible for the Saskatchewan Child Action Plan and its Steering Committee for the development of this report, "*A Child Should Know...*". It is particularly fitting that a report of this nature has been developed in this year, 1999, the 10th anniversary of the adoption of the United Nations *Convention on the Rights of the Child.*

At the Commission, one of our objectives is to promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family. We are always pleased when other agencies develop new materials highlighting human rights issues. We recognize the importance of promoting greater awareness and understanding of human rights through the use of a wide range of resources.

I believe this report will be of assistance to those individuals who are interested in learning more about the rights of children as well as the rights and responsibilities of families and the community at large in respect of children. This report will also assist the efforts of those who are committed to advancing the rights of children in Saskatchewan.

Sincerely,

Donna Scott

Donna Scott
Chief Commissioner
Saskatchewan Human Rights Commission

Children's Advocate
315 - 25th Street East,
Saskatoon, Saskatchewan S7K 2H6
Phone: (306) 933-6700
Fax: (306) 933-8406
email: child advocate@govmail.gov.sk.ca

December 15, 1999

Dear Reader:

I want to congratulate the Saskatchewan Child Action Plan Ministers and Interdepartmental Steering Committee for supporting the development of this technical report "*A Child Should Know....*" The completion of this document reflects Saskatchewan's commitment to respect the rights of children as defined in the United Nations *Convention on the Rights of the Child.* This year, 1999, we are recognizing the 10th anniversary of the adoption of this Convention. It is particularly significant that this report is being released this year in recognition of this event.

I am hopeful that the information contained in this report will be of assistance to Saskatchewan people who are seeking clarification of children's and parent's rights and responsibilities. This is the first report in Saskatchewan providing a comprehensive overview of children's rights. It is an important resource in ensuring that the rights of Saskatchewan children are respected. Children and their parents and caregivers will be interested in understanding the rights and responsibilities outlined in this document. I am looking forward to the future development of child-oriented materials based on the detailed materials in this report.

I would invite you, as a reader, to use this document to further your understanding of the rights of our children. You have an opportunity to use this information to ensure that the children and families you are involved with are treated in a manner consistent with the rights outlined within this report.

Sincerely,

D Parker-Loewen

Deborah Parker-Loewen
Children's Advocate
Province of Saskatchewan

104-02787/

Table of Contents

Preface 5

Introduction 5

Parenthood 6

- Parents 6
- Declaration of Parentage 6
- Adoptions 7
- Effect of Adoption Order 9
- Post-Adoption Registry 9
- Intercountry Adoptions 10

Change of Name 11

Rights and Responsibilities of Parents 11

- Necessaries of Life 11
- Leaving Children Home Alone 12
- Disciplining Children 12
- Child Care 12
- Child Protection 12
- Domestic Violence 17

Rights and Responsibilities Following Divorce or Separation 18

- Child Support 18
- Enforcement of child support 19
- Custody and Access 20
- Enforcement of custody and access 23
- Guardianship of property of a child 26

Definition of Children 27

- Age of Majority 27
- Definition of Children 27
- Marriage 27
- Medical 28
- Employment 30
- Property 31
- Education 35
- Sexual Offences 36
- Social Rights 37

Children's status before the Law and Responsibilities to Society 39

- Criminal Status 40
- Civil Responsibility 41
- Children's Responsibilities to Parent 42
- Protection of Children's Rights 42

Conclusion 43

A Child Should Know...

Preface

1999 is the 10th anniversary of the United Nations adoption of the *Convention on the Rights of the Child.* To celebrate, the Saskatchewan Action Plan for Children has developed this review of rights and responsibilities for children, their parents and other adults. It is intended to open discussion and encourage love, support and respect for children.

This document is only an overview of the legislation; original legislation should be consulted for all purposes of interpreting and applying the law.

Introduction

The desire for the United Nations to extend care to a child was first stated in the 1924 *Geneva Declaration of the Rights of the Child.* On November 20, 1989, the General Assembly of the United Nations considered, among other things, the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world.

It was recognized that a child, for the full and harmonious development of their personality, should grow up in a protected environment, with family that provides an atmosphere of happiness, love and understanding.

Further, it was considered that a child should be fully prepared to live as an individual in society and be brought up in the spirit and ideals pro-

claimed in the Charter of the United Nations — in particular — with the spirit of peace, dignity, tolerance, freedom, equality and solidarity.

The General Assembly of the United Nations agreed to the Convention on the Rights of the Child in 1989. Consequently, all signatory countries have been, are and will continue to carry out, protect and respect these rights and responsibilities in their domestic legislation.

This review was prepared to acknowledge the 10th anniversary of the Convention on the Rights of the Child and to open discussion about children's rights and responsibilities in Saskatchewan. The review is not intended as an evaluation of Saskatchewan legislation. Rather, it examines children's rights and responsibilities that connect them to their family and society. The rights outlined in this paper are essential to encourage development of resilient, responsible children who can, in turn, contribute to society as individuals.

Article 18

1. State Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing of the child. The best interests of the child will be their basic concern.

UN Convention on the Rights of the Child

Parenthood

Parents

A parent is the father or mother of a child, whether the child was born within or outside marriage. A mother or father of a child by adoption is also a parent.

Declaration of Parentage

When a child is born, the parents are joint legal custodians with equal rights, powers and duties. However, where the parents did not live together after the birth of the child, then the parent with whom the child resides is the sole legal custodian (*The Children's Law Act, 1997*, S.S. 1997 c. C-8.2).

When there is a dispute as to fatherhood of a child, the court may declare paternity. A man is presumed to be the father when:

- he was living with the mother at the time of the child's birth,
- he signed the birth registration or filed the statutory declaration,
- he acknowledged he is the father, or
- he has been found by a Canadian court to be the father.

Adoptions

Parenthood can be achieved through adoption. Once a child has been adopted, the adoptive parents obtain all rights and responsibilities for the child. Legislation recently passed clarifies that any existing right of a birth parent to custody or access is terminated following adoption. However, access can be retained if a step-parent adoption does not terminate the rights of a birth parent.

An order for adoption can be granted only if it is in the best interests of the child *(The Adoption Act*, S.S. 1989-90 c. A-5.1*)*. Factors to determine the best interests include:

- The child's physical, cultural, mental, emotional, psychological and spiritual needs and level of development.
- Continuity in the child's care with the development of a positive relationship with parents and a secure place as a member of a family.
- The child's wishes.
- The effect on the child if the order is not made.
- In the case of adoption by a step-parent, the effect this new relationship has on the child's relationship with the biological parent.

Article 20

1. A child deprived of his of her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the state.
3. Such care could include adoption. Regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic religious, cultural and linguistic background.

UN Convention on the Rights of the Child

Adoptions may proceed in several ways.

A child who was permanently committed to a child welfare authority or to the Minister of Social Services pursuant to *The Child and Family Services Act*, S.S. 1989-90 c., may be placed for adoption as a Crown ward.

A resident of Saskatchewan may apply to have a Crown ward placed in his or her home for the purpose of adoption. Where the director (a person appointed by the Minister of Social Services) is satisfied it is in the best interests of the child, the director may give responsibility for care and supervision to the applicant. The director will prepare a report to the court when the court is determining an order for adoption.

A birth parent or guardian of a child who wishes the child to be adopted through an agency licensed by the Minister under *The Adoption Act*, may transfer guardianship to the agency. When transfer of guardianship is completed by both birth parents, the agency has all rights and responsibilities of a parent of the child.

A resident of Saskatchewan may apply to an agency to have a child placed in his or her care for the purpose of adopting the child. Where the guardianship has been transferred to the agency and, when the agency believes it is in the best interests of the child, the agency may give the care and supervision of the child to the applicant. The agency will then prepare a report to the court for the purpose of making an adoption order.

Birth parents have the option of independent placement. Parents may place a child for the purpose of adoption with another person or

persons of the parents choice. To do so , the adoptive applicant must file a written report approved by the director with respect to suitability of the applicant to adopt. Then, the court will make any inquiries appropriate to satisfy itself that it is in the best interests of the child to be adopted by the applicant.

A step parent may apply to the court to adopt a child of his or her spouse if the child is living with the step parent and is being cared for by the step parent. The consent of the birth parent who is not the spouse of the applicant must be obtained or dispensed with. The birth parent where consent is required, may apply to the court for an order granting access to the child. The court may grant access if it is in the best interests of the child.

Effect of Adoption Order

Once an adoption is finalized, the child becomes a child of the adopting parent. The adopting parent becomes the parent and guardian of the child, just as if the child had been born to that parent.

Post-Adoption Registry

An adult who was adopted as a child, or a parent who consented to the child's adoption may wish to establish contact with his or her birth parent or child. In such instances, issues related to the privacy of the child, the adoptive parents and the birth parents must be addressed. Under *The Adoption Act*, the Minister of Social Services created the post-adoption registry. Services provided by the registry include search and reunion services for adult adoptees and their birth parents. Counselling is provided to the parties both before and after a reunion. Employees of the post-adoption registry

Article 20

State parties that recognize a system of adoption shall ensure that the best interests of the child shall be paramount consideration and they shall:
(a) ensure the adoption of a child is authorized only by competent authorities;
(b) recognize that inter-country adoption may be considered if cannot be cared for in the child's country of origin;
(c) ensure the child enjoys safeguards equivalent to those for cases of national adoption;
(d) ensure the placement does not result in improper financial gain for those involved.

UN Convention on the Rights of the Child

also help negotiate agreements between the birth parents and adoptive parents should there be continuing contact with the child. *The Freedom of Information and Protection of Privacy Act* does not apply to any information or procedures under *The Adoption Act*.

Intercountry Adoptions

Adoptions from a different country are governed by the Hague Convention on Intercountry Adoption. This convention was implemented in Saskatchewan on April 1, 1997.

The Convention emphasizes that any intercountry adoption must be done in the best interests of the child, with respect to his or her fundamental rights. Abduction or trafficking in children is to be prevented.

Article 4 of the Convention establishes the requirements for intercountry adoptions to take place. Article 4(d) states before the adoption the child shall, having regard to the age and maturity of the child, be informed of the effects of the adoption and consideration has been given to the child's wishes and opinions.

Article 35

State Parties shall take all appropriate measures to prevent the abduction of, the sale of, or traffic in children.

UN Convention on the Rights of the Child

The Convention designates a Central Authority to oversee the adoption. The Central Authority in Saskatchewan is the Minister of Social Services. If a person wants to adopt a child from outside Canada, he or she must apply to the director for approval of placement and agreement that this is a suitable home for the child. The adoption may be finalized in the child's country of origin or in the province.

Section 6 of *The Intercountry Adoption (Hague Convention) Implementation Act, 1995*, S.S. 1995 c. I-10.01 protects the child's right to access information held in Saskatchewan concerning their origin.

Change of Name

An application to change a child's name must be made under *The Change of Name Act, 1995*, S.S. 1995 c. C-6.1, with the written consent of all legal custodians. If the parents lived together at birth, they must both consent. If they are separated and one parent has an order or agreement for custody or the parents never lived together after the birth of the child, then consent is required from the parent with custody. If the child is legally adopted, the adoptive parents are the legal custodians and must consent. If the child is 14 years of age or older, the child's written consent is also required.

A youth 18 or older, married, widowed or divorced can apply to change his or her name.

Rights and Responsibilities of Parents

Necessaries of Life

Parents are obligated to provide the necessaries of life to their children. The *Criminal Code* of Canada states

" 215(1) Everyone is under a legal duty

(a) as a parent, foster parent, guardian or head of a family, to provide necessaries of life for a child under the age of sixteen years".

It is not a defence if a child is receiving the necessaries of life from another person who is not under a legal obligation.

Article 27

1. State Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parents have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

UN Convention on the Rights of the Child

Leaving Children Home Alone

There is no law that fixes an age at which a child may be left alone. The issue of when children are old enough is a matter of discretion and parental responsibility rather than a specific age. There is, of course, the potential of criminal charges for failure to provide necessaries if young children are left alone or left in charge for too long a period of time. There is also the potential for the child to be found in need of protection and taken into care.

Disciplining Children

Parents are permitted to discipline their children. However, the *Criminal Code* only allows for a reasonable amount of force.

Article 18

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible.

UN Convention on the Rights of the Child

Child Care

Saskatchewan promotes the provision of child care services to Saskatchewan families. People may be licensed under *The Child Care Act*, S.S. 1989-90 c. C-7.3 to operate a child care centre or day care centre. The Act provides extensive regulatory power.

A licensed facility can be inspected by the parents of children at the facility during all reasonable times of operation. Also, the Minister of Social Services or an official can investigate or inspect the facility whenever necessary.

Child Protection

The Child and Family Services Act, S.S. 1989-90 c. C-7.2, addresses child protection in Saskatchewan.

A child is in need of protection where as a result of action or omission by the child's parent:

- the child has suffered or is likely to suffer physical harm;
- the child has suffered or is likely to suffer a serious impairment of mental or emotional functioning;
- the child has been or is likely to be exposed to harmful interaction for a sexual purpose, including conduct that may amount to an offence within the meaning of the *Criminal Code;*
- medical, surgical or other recognized remedial care or treatment that is considered essential by duly qualified medical practitioner has not been or is not likely to be provided to the child;
- the child's development is likely to be seriously impaired by failure to remedy a mental, emotional or developmental condition; or
- the child has been exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child;
- there is no adult person who is able and willing to provide for the child's needs, and physical or emotional harm to the child has occurred or is likely to occur; or
- the child is under 12, and there are reasonable and probable grounds to believe that the child has committed an act that would be criminal if he or she were over 12, services are necessary to prevent recurrence and the child's parent is unwilling or unable to act.

A child means, except where the act expresses a contrary intention, an unmarried person actually or apparently under 16 years of age.

Harmful interaction for a sexual purpose includes children sexually exploited through prostitution.

Article 19

1. State parties shall take all appropriate legislative administrative social and educational measures to protect the child from all forms of physical or mental violence injury abuse neglect maltreatment or exploitation including sexual abuse while in the care of parents or legal guardians.

UN Convention on the Rights of the Child

An officer (a peace officer or a person with the appropriate qualifications designated by the Minister of Social Services to be an officer) may take custody of a child in the following circumstances:

- Where a child is without a parent or guardian and needs assistance to return.
- Where a child has been wrongfully removed from their parent or guardian.
- Where a child younger than 12 committed an act that would be criminal if the child were over 12.
- Where a parent or guardian is unable to care for the child. In those circumstances, a parent may agree to have residential services provided for the child. If the child is over 12, the agreement must be explained to the child and where possible, consider the child's views.
- Where the child is in need of care, and is 16 or 17 years old, and there is no parent willing to be responsible, then by an agreement, financial assistance and/or residential services can be provided.
- Where a child is not safe in the parental home.

Where a child is in need of protection (as defined by Section 11 of *The Child and Family Services Act*) and at risk of incurring serious harm and where no other arrangements are practicable, apprehend the child and remove the child to a place of safety.

Sixteen and 17 year old youth who are in need of protection (as defined by Section 11 of *The Child and Family Services Act*, which includes youth who are sexually exploited through prostitution) can only be apprehended if the director considers the circumstances exceptional.

Once it is determined a child is in need of protection, there are several options for the child. An officer informs the parent or guardian of family

services available. If the parent or guardian agrees, the family would receive the necessary services. A temporary order may be issued to protect the best interests of the child which may include a restraint on the parent or guardian's contact with the child. Where the child is at risk of incurring serious harm, all steps must be taken to provide safety and may mean the child is apprehended to a place of safety.

A court may order the child to remain with his or her parent(s) or to be placed in the custody of someone with a close relationship to the child. The court may order custody of the child be with the Minister of Social Services, either temporarily or permanently with a provision for parents or guardians to visit the child.

A child may also be placed into the care of the Minister of Social Services by a voluntary committal consented to by a parent. The child must be at least three days old. A parent under the age of 18 years can consent to the voluntary committal of his or her child. Once a child is in the care of the Minister, the Minister has all rights and responsibilities of the parent and is the guardian of the child.

Where an officer is arranging residential services for a child or an order is made by the court, the officer or court shall, having regard for the best interests of the child, consider the feasibility of placing the child with extended family. Also, where practicable, an attempt is made to maintain the child in an environment consistent with the child's cultural background. (section 53 of *The Child and Family Services Act*)

The Child and Family Services Act has a provision for the views of a child, who is over 12, to be heard. At a child protection hearing, the court may, if it is

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.

UN Convention on the Rights of the Child

in the best interests of a child, order the child be served with the notice of a hearing and be permitted to be present at the hearing. The court may order the child be interviewed by the judge.

Article 3

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in safety, health, in the number and suitability of their staff as well as competent supervision.

UN Convention on the Rights of the Child

The Minister is responsible for shelter, support, care, counselling and rehabilitation for the child. If the child is 16 or over and it is in the best interests of the child, the Minister's responsibility for expenses may be discontinued. On the other hand, the Minister may, in some circumstances where the child has been committed on a long-term or permanent basis, continue to provide support, shelter, care, counselling and family services when the person is over 18 if that person is continuing his or her education. The Minister shall not provide these services after the person has completed education, or attained the age 21, whichever comes first.

The Child and Family Services Act has a general provision for confidentiality of the name, information, files, documents and records dealing with the history or record of a person. However, section 74(2) states a minister, director or officer may, upon request, disclose or communicate information relating to a child to the guardian, parent or foster parent of that child; or, the child to whom the information relates.

Generally social assistance is not available to young people, in their own right, until the age of 18.

Publication Ban of Court Proceedings

On request, a court can prohibit publishing a report of a child protection hearing if it is not in the best interests of or could cause hardship for the victim, or a child in the care and control of the victim.

Domestic Violence

Children are protected from domestic violence under *The Victims of Domestic Violence Act 1994*, S.S. 1994 c. V- 6.02. The Act protects any victims who are subject to domestic violence by another cohabitant. Where domestic violence has occurred and the situation is very serious, an emergency intervention order can be made immediately by a Justice of the Peace to provide for the immediate protection of the victim.

A victim's assistance order can be made by a court where the situation is not urgent. The victim's assistance order can have the same conditions as the emergency order but can have other conditions such as ordering the cohabitant to pay the victim compensation for losses suffered by the victim and any child of the victim.

An application can be made by a victim or any other person on behalf of the victim with permission of the Justice of the Peace or court.

If the Justice of the Peace is satisfied that a police officer has been refused access to the premises, and a cohabitant who may be a victim will be found there, a warrant can be issued to search the residence. If the search finds that a cohabitant is a victim, that person can be removed from the residence to assist or examine them.

Rights and Responsibilities Following Divorce or Separation

Divorce is governed by the federal *Divorce Act*, which applies throughout Canada. When a divorce is granted, it does not eliminate a parent's responsibility for his or her children. The husband and wife must settle issues of custody, access and support. These issues can be settled by the parents themselves or with the help of a lawyer or mediator. In some cases a court will make a decision.

In situations where the parents separate but do not apply for a divorce, or were never married, the provincial legislation ensures parents maintain their responsibility to their children. *The Family Maintenance Act, 1997* S.S. 1997 c. F-6.2 directs payment of spousal and child support. *The Children's Law Act ,1997* S.S. 1997 c. C-8.2 addresses custody and access issues.

Child Support

Every parent has an obligation to support his or her child. To ensure consistency in divorce and non-divorce cases, Saskatchewan amended *The Family Maintenance Act* in May 1997 to adopt the federal child support guidelines. The child support guidelines apply to all children under the age of 18. A court may order or the parents may agree to support of a child over 18 if the child is under the charge of the parent seeking support and is unable (because of illness, disability or pursuit of education) to be independent from that parent's charge. In those circumstances, a parent is obligated to pay child support in the amount of the guidelines or an amount the court considers appropriate.

Parents can agree to an amount of child support consistent with the guidelines, they can ask a lawyer or mediator to help them negotiate an agreement, or they can apply to a court for a decision. Any child support order can be changed or "varied" should there be a change in circumstances such as the child no longer living at home or the paying parent losing his or her job.

Generally, the amount of child support is based on an amount that considers the paying parent's income. The court may lower or raise the amount of support. The amount may be raised by adding extraordinary expenses such as child care costs, costs for medical or dental care such as orthodontics. They also add costs for extracurricular activities if they are beyond what a child with that family income would do, such as private ballet lessons for a gifted young dancer.

Where either parent would suffer undue hardship the amount can be lowered or raised. First, it must be determined if there are circumstances for undue hardship, such as one parent having assumed an extremely high level of debt from the marriage. Second, there is a test to determine the standard of living in each parent's household. The child support amount would be set so both households would have a similar standard of living.

Enforcement of child support

Saskatchewan has a voluntary registry of support orders at the Maintenance Enforcement Office. *The Enforcement of Maintenance Orders Act, 1997*, S.S. 1997 c. E-9.21 established the office and the process for a claimant to register an order. The Maintenance Enforcement Office can have a parent's wages or bank accounts garnished, have any federal payments

Article 27

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child. In particular, where the person responsible lives in a different state than the child, states shall promote access to international agreements.

UN Convention on the Right of the Child

such as the GST rebate garnished, revoke licenses, withhold passports and collapse pensions to ensure child support is paid. In situations where the recipient and the payor live in different provinces, *The Reciprocal Enforcement of Maintenance Orders Act, 1996*, S.S. 1996, c. R-4.2 ensures all provinces and other countries cooperate to enforce child support orders. The claimant (or custodial parent) must register the support order with the Maintenance Enforcement Office before any enforcement is proceeded with.

The order cannot be registered by the child. However, children and youth who are parents, have the same obligations to pay child support in the amount of the child support guidelines. A spouse or parent who is a minor has the capacity to commence, conduct and defend a proceeding without a litigation guardian.

Custody and Access

Custody means the personal guardianship of a child and includes the care, upbringing and any other decisions that need to be made having regard to the child's age. Access means the **right of a child** to spend time with the parent who does not have custody.

Issues of custody and access can be addressed under the federal *Divorce Act* where there is a divorce or the provincial *Children's Law Act, 1997* if the parents were never married, or were married and are separated but are not divorcing.

In Saskatchewan, under *The Children's Law Act, 1997* the parents of a child are joint legal custodians of the child with equal rights, powers and duties. The status of joint legal custodian can be altered by

court order or by the parents' agreement. Parents can agree to vary joint status and appoint one or more custodians and property guardians. They can specify rights and duties of each parent, and set up access by the child to one of the parents or any other person.

When parents cannot agree, the court may grant custody of or access to a child to one or more persons and may determine the process to make decisions about the child and the times for access. The court generally has one guiding principle when making decisions about custody or access. What is in the best interests of the child? The *Divorce Act* directs the court to consider "only the best interests of the child of the marriage as determined by the condition, means, needs and other circumstances of the child".

The Children's Law Act, 1997 goes further and provides direction on elements or factors applicable to determining the best interests test:

- the quality of the relationship the child has with the parent seeking custody or access;
- the personality, character and emotional needs of the child;
- the physical, psychological, social and economic needs of the child;
- the capacity of the person seeking custody or access to care for the child;
- the home environment for the child (for custody determination);
- the plans for the child's future (for custody determination);
- the wishes of the child to the extent the court considers appropriate having regard to the age and maturity of the child.

The court will not consider the parent's past conduct unless it impacts on the ability to parent or

Article 9

1. States Parties shall ensure a child shall not be separated from parents against their will except when competent authorities in accordance with applicable law and procedures, determine that separation is in the best interests of the child. Such determination may be necessary where the parents are living separately.
3. The right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

UN Convention on the Rights of the Child

care for the child. As well, when making a custody decision the court will not give preference to either parent based on the fact the person is a mother or father. A relationship with both parents is encouraged. When determining custody or access, a child should have as much contact with his or her parents as is in his or her best interests.

An order may in general, or in detail provide for the division and sharing of responsibilities and the time for access. Access time and location may be specified, including ordering supervised access.

Section 6 of *The Children's Law Act, 1997* states that on an application of a parent *or other person having, in the opinion of the court a sufficient interest*, the court may order custody of, or access to a child to one or more persons. Section 6 applies to grandparents, aunt, uncles, or close friends of the family who want to maintain contact with the child. Any court decision about custody and access focuses on the best interests of the child (Sections 8 and 9 of *The Children's Law Act, 1997*).

Parents who do not have custody, but have access to a child, have the same right to make inquiries and be given information concerning the health, education and welfare of the child. They do not however (unless court ordered) have a right to be consulted about, or to participate in, the making of decisions by the custodial parent.

In Canada, people can move freely between provinces to establish their homes. However, because of the importance of a child maintaining contact with both parents, the court may put restrictions on the right of either parent to move. This protects the child's right to contact with both parents. Considerations to allow a move include the

plans for the child to maintain contact and the parent's motivation, to be certain it is not done to deprive the other parent and child from time together.

Enforcement of custody and access

Orders addressing custody and access are not registered and enforced in the same way as child support. However, Saskatchewan has significant enforcement remedies in *The Children's Law Act, 1997*.

The court may restrain a person from molesting, annoying, harassing, communicating or interfering with the child or parent caring for the child.

Where a parent is withholding the child or is prohibited from removing the child from Saskatchewan and intends to take the child from Saskatchewan, a peace officer can be directed by the court to apprehend and take the child to the parent with the right of custody or access.

Where a child and parent have had access prevented, or the parent has not exercised access in accordance with the order or agreement, and it is in the best interests of the child, a court may:

- order compensatory access,
- require supervision of access,
- require security to ensure the order is complied with,
- appoint a mediator, and/or
- change the custody and access order altogether.

Where a parent has displayed wilful, disobedience of court orders, the court may find the parent in contempt and fine them up to $5000 or 3 months in

jail the first time and $10,000 or 2 years in jail for any further findings.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

UN Convention on the Rights of the Child

In addition to the enforcement remedies under *The Children's Law Act*, there are protections under the *Convention on the Civil aspects of International Child Abduction* and the *Criminal Code*. When a custody order or custody rights are violated and a child is abducted by one of the parents, the best interests of the child may require interjurisdictional co-ordination, quick response and, in some cases, criminal charges.

Offences dealing with child abduction are set out in sections 282 and 283 of the *Criminal Code*. Section 282 of the *Criminal Code* addresses the abduction of a child under 14 by a parent or guardian who takes away the child in contravention of a Canadian custody order with the intent to deprive the other parent of the child. Section 283 addresses the abduction of a child under the age of 14 by a parent where no Canadian order exists - this section may apply to orders from other jurisdictions or situations where no order exists and custody rights are determined by an agreement or statute. Charges under section 283 must be approved by the Crown prosecutor.

It is a defence to these charges if the parent taking the child has consent from the other parent or is taking the child to protect him or her from imminent harm. It is a defence if the abductor was fleeing from imminent harm and took the child with him or her, for example, a parent escaping from spousal assault. It is not a defence if the child consented to or suggested the conduct.

In October 1998 the federal, provincial and territorial Attorneys General approved model

parental child abduction guidelines to assist police and prosecutors in determining whether to lay charges. The guidelines and the *Criminal Code* sections put the child first and recognize the children have rights to contact with both parents, to security, stability and continuity in their lives. Unilateral actions by one parent that affect the child's right to contact with the other parent are not tolerated.

The Hague Convention on International Child Abduction is incorporated into the law of Saskatchewan and is attached as a schedule to *The International Child Abduction Act, S.S. 1996 c. I-10.11*. The Convention applies between states who have agreed to its terms. The object of the Convention is stability for the child by securing the prompt return of children wrongfully removed and ensuring the custody rights of one state are respected by others. The removal is wrongful if it breaks custody rights that would be exercised but for the removal. The Convention applies to children habitually resident in a contracting state prior to the breach of custody or access rights. It ceases to apply when the child reaches 16. While the Convention attempts to ensure orders are respected, in exceptional cases, courts may not order the return of a child to the jurisdiction granting the order if it can be shown the parent seeking the child's return has consented to the removal or if the child is at risk of physical or psychological harm if returned.

An important element of the *Act* is access to information. If it is necessary to determine the whereabouts of a person, information or location or address can be demanded from any person or public body.

To discover the whereabouts of the child, to prevent harm, to secure the return of the child to the custodial parent or to secure effective exercise of the rights of access, action is taken by the Central Authority. The Central Authority in Saskatchewan is:

Policy Planning and Evaluation
Saskatchewan Justice
4th - 1874 Scarth Street
Regina, Saskatchewan
S4P 3V7

In Canadian situations where civil enforcement of custody and access rights is sought between parties on a Canadian order or agreement, there is no similar authority as the Central Authority for international abductions. Parties must pursue their remedies under the family law or through the criminal enforcement process noted above.

Guardianship of property of a child

Under *The Children's Law Act, 1997* parents of a child are joint guardians of the property of a child. However, the court may appoint one or more property guardians if the situation requires (e.g. a separation of the parents).

To determine a property guardian the court considers:

- the ability of that person to manage the property,
- the merits of the proposed plan for managing the property,
- the personal relationship with the child,
- the wishes of the parents, and
- the views of the public trustee.

Unless a court orders otherwise, a child who is 12 years or older must consent to the appointment of the property guardian.

Definition of Children

Age of Majority

In Saskatchewan the age of majority is 18 years (except with respect to legal consumption of alcohol the age is 19 years). At 18, a young person legally becomes an adult and has the right to vote, to serve on a jury, to marry, to change his or her name or to join the armed forces. The young person is fully capable of giving informed consent for medical or mental health care, for business contracts and for sexual relationships.

Definition of Children

Although *The Age of Majority Act*, R.S.S. 1978, c. A-6 states adulthood is 18, the transition to adulthood and acquisition of adult rights and responsibilities is a gradual process. Some statutes in Saskatchewan provide that rights come into effect prior to the age of 18 in certain circumstances. Transition also occurs with responsibility. From the age of 12 to 18 young persons can be held criminally responsible.

The following is a review of rights and responsibilities youth acquire as they move towards adulthood.

Marriage

In Saskatchewan, *The Marriage Act 1995*, S.S. 1995, c. M-4.1 governs the marriage of minors. If the person is over 18 he or she can consent to the marriage.

Article 1

A child means every human being below the age of eighteen years unless, under the last applicable to the child, majority is attained earlier.

Article 38

2. States shall take all measures to ensure persons who have not attained the age of fifteen do not take a direct part in hostilities.
3. Stats shall refrain from recruiting any person who is under fifteen into their armed forces.

UN Convention on the Rights of the Child

If the young person is under 18, there must be consent to the marriage by both parents or legal guardians or the consent of one parent is sufficient if:

- only one parent is living,
- one parent has legal custody,
- one parent is an in-patient in a mental health facility; or
- the parents are separated, the minor has been living with one parent at least one year preceding the date of the intended marriage and the other parent has not contributed to the support of the minor during that period.

If the child is a ward of the province, consent is required from a director appointed by the Minister of Social Services.

If the young person under 18 is not able to obtain parental consent, he or she can apply to a judge for an order dispensing with the need for consent.

If the young person is under 16 then he or she requires a judge's consent to the marriage as well as the parent's consent.

The Marriage Act, 1995 requires two witnesses for the solemnization of marriage. The witnesses must be at least 18 years of age.

Medical

Generally, parents have rights and responsibilities to make decisions in the best interests of their child, until the child gains legal capacity. In Saskatchewan, there is no age delineated when children suddenly have the capacity to make decisions about treatment. It is dealt with on a case-by-case basis by the medical professionals. Professionals need to determine whether the child:

- understands information relevant to a health care decision respecting a proposed treatment;
- understands the risks of proceeding with the treatment or the risks of not proceeding with the treatment,
- is aware of the alternatives to the treatment.

> Parental rights are a dwindling bundle of rights which the courts will hesitate to enforce against the wishes of the child and the more so the older he or she is. (Lord Denning in White (1980) *Comparison of Parental and Guardian Rights* CJFL Vo. 3 p 219 to 249).

Decisions about birth control should be made between the young person, his or her doctor, and in consultation with the parents, as required.

Once the physician determines a child has the capacity to understand the decision, the parent or guardian has no ability to make a decision on the child's behalf. The exception is with respect to surgical treatment in a hospital where provincial regulations require the consent of the parent, except in emergency situations.

If the minor has capacity, then the physician patient relationship is subject to the same rules of confidentiality as if the patient is an adult. The physician or counsellor should not release information to parents. Generally, there is confidentiality of the patient's record unless it needs to be released by reason of law. For example, *The Public Health Act, 1994* can require the name of an individual be provided to a designated public health officer, should that individual be diagnosed with tuberculosis.

Once a child reaches the age of 16, and has capacity, he or she can make a health care directive. (*The Health Care Directives and Substitute Health Care Decision Makers Act, 1997*, S.S. 1997 c. H-0.001). A health care directive allows a patient to express their wishes. It anticipates and gives directions relating to treatment for specific circumstances. A 16 year old with capacity may also appoint a proxy. The proxy shall act according to the wishes of the person should that person become incapacitated or will act according to the person's best interests if the proxy has no knowledge of the person's wishes. The person acting as proxy must be 18 years of age or older.

The Public Health Act, 1994, S.S. 1994 c. P-37.1 designates public health officers who may order a person to take or refrain from taking any action or treatment considered necessary to decrease a risk to health by communicable disease. The order must be served on the parent or guardian if the child is under 14. If the public health officer determines a child between 14 and 18 will understand the order, he or she may choose to serve the order on the child rather than the parents.

Employment

Individuals under 18 are allowed to work; however, regulations of *The Occupational Health and Safety Act, 1993*, S.S. 1993 c. O-1.1 prohibit individuals under 18 from engaging in certain activities. The Minimum Wage Board Order, 1997, section 8 states: The minimum age at which employees may be employed in hotels, restaurants, education institutions, hospitals and nursing homes is 16 years of age.

The Labour Standards Act R.S.S. 1978 c. L-1, establishes the minimum standards that apply to wages, hours, overtime work schedules, vacation, termination, equal pay for men and women and leaves of absence for parents. The Act applies to all employees, of any age, who are in receipt of money for labour or services although there are exceptions in certain cases (e.g. the Act does not apply when the only employees in the undertaking are the immediate family). The minimum call out pay established is at least $18 for each time the employee is called out to work, regardless of the time put in. All full time, part time, casual, temporary and seasonal employees receive annual holiday pay.

Section 68 of *The Queen's Bench Act, 1998*, S.S. 1998 c. Q-1.01 states that minors may sue for wages as if they were adults.

Property

Public Trustee

A young person under the age of 18 has a right to own property and have his or her interest in that property protected by a property guardian appointed via *The Children's Law Act, 1997* or the office of the Public Trustee.

No sale or mortgage of property the child has an interest in is valid without the consent of the Public Trustee or a court order. The Public Trustee can, if it is in the best interests of the child, consent to the sale, lease, mortgage, encumbrances, etc. of the young person's land. But if the young person is over 14, he or she must give consent to the transaction.

Article 26

States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

UN Convention on the Rights of the Child

A child can own a condominium, but under *The Condominium Property Act, 1993*, S.S. 1993 c. C-26.1 voting must be exercised by the property guardian or the Public Trustee.

If a young person is entitled to part of an estate or a settlement in damages, the Public Trustee would make or respond to applications on behalf of the young person. The Public Trustee may receive, on behalf of the young person, any life insurance, death benefits, inheritance, etc. The Public Trustee shall not receive money payable to a young person that he or she earned as wages. Money being held by the Public Trustee may be used for the young person's maintenance and education or any other special circumstances that are in the best interests of the young person.

Renting Property

Provincial legislation regulates the rental of property including the rights and obligations of the landlord and tenant regarding rent, moving out and damage deposits. As a place to live is a necessary of life, someone under 18 can enter rental agreements.

Matrimonial Property

In situations of divorce, *The Matrimonial Property Act, 1997* S.S. 1997 c. M-6.1 applies to the division of property. Where a minor is a spouse, he or she has the capacity to commence or defend proceedings under this Act without the intervention of a litigation guardian. A minor spouse may enter into an interspousal contract with the same obligation of independent legal advice as applies to adults divorcing.

Inheritance

When one parent dies without a will, the children are entitled to a share in the estate. When the estate is over $100,000 the spouse receives the first $100,000 then 1/2 or 1/3 of the remaining money depending on the number of children. The remaining money is divided equally among the children. Should one of the children have died, but there are grandchildren, the grandchildren are entitled to the share their parent would have received.

Where a child has been advanced a portion of the estate prior to death, that amount shall be considered to ensure equal division between the children.

According to *The Wills Act 1996*, S.S. 1996 c. W-14.1 where a parent dies and leaves a will, the estate is to be distributed according to the will's instructions. Where there are dependent children that have not been taken care of, an application can be made on behalf of the child to obtain a portion of the estate. A child who is under age 18, or who is over 18 but by reason of mental or physical disability is unable to earn a livelihood, or by reason of need or other circumstances, should receive a greater share of the estate, may apply under *The Dependant's Relief Act, 1996*, S.S. 1996 c. D-25.01 for an order for their maintenance.

A young person under the age of 18 cannot make a will unless he or she is married or a member of the armed forces.

There are various other Acts under which dependent children receive benefits. The following are examples.

- Where a worker dies, compensation shall be payable to the dependents (*The Workers Compensation Act*, 1979 S.S. 1979 c. W-17.1).
- Where the primary dependent is a child of the insured all sums are to be paid to the Pubic Trustee on behalf of the child (*The Automobile Accident Insurance Act*, R.S.S. 1978, c. A-35).
- A student unable to begin or continue school because of an accident is entitled to a loss of studies benefit or an income replacement benefit if he or she is unable to hold or obtain employment he or she would have had there been no accident (*The Automobile Accident Insurance Act*).
- Should the person paying into the pension plan die prior to retirement, the dependent spouse or child either under 18 or over 18 but full time in school or unable to withdraw from his or her parent's care, receives the benefits of the member (*The Municipal Employees' Pension Act*, R.S.S. 1978 c. M-26).
- Where a victim is a child or a dependent child of the victim and is entitled to apply for compensation with respect to a victim's injury or death the child may do so by parent or guardian (*The Victims of Crime Act*, 1995, S.S. 1995 c. V-6.011).
- Where a deceased debtor's property would have been exempt from seizure per *The Exemptions Act*, R.S.S. 1978 c. E-14 it remains exempt in the use and enjoyment of the surviving spouse and children if it is necessary for their maintenance and support.

Education

The Education Act, 1995 S.S. 1995 c. E-0.2, states every person who is 6 years of age but has not yet attained the age of 22 years, has the right to attend school and to receive instruction appropriate to that person's age and level of educational achievement. It is mandatory for all children to attend school from their seventh birthday until their sixteenth birthday. The parents and guardians have the duty, having charge of a person of compulsory school age, to take all steps necessary to ensure regular attendance (with exceptions).

The right to receive instruction is the right to instruction in courses approved by the Board of Education and generally provided with no fees for tuition, transportation or other expenses with respect to attending school.

The Board of Education shall provide education services to pupils with disabilities including, where appropriate, special education services. A pupil, parent or guardian who disagrees with the placement, program or designation of a pupil with disabilities has the right to immediate review of the decision of the Board of Education.

A school may limit education rights by suspending a student for up to either three days or ten days. In more serious cases, the board of education may suspend a pupil for up to one year or expel the pupil. Where a child is disciplined, there are provisions for the expeditious investigation and treatment of problems arising in the relationship between a pupil and the school. The parent or guardian of the pupil shall be immediately informed and have an opportunity for consultation.

Article 28

1. State Parties recognize the right of the child to education with a view to achieving this progressively and on the basis of equal opportunity shall (a) make primary education compulsory and free to all; (b) encourage development of different forms of secondary education and make them accessible and affordable; (c) make higher education accessible on the basis of capacity; (d) make educational and vocational guidance accessible; (e) take measures to encourage regular attendance at schools and reduction of drop out rates.

UN Convention on the Rights of the Child

Article 28

2. State Parties shall take appropriate measures to ensure the school discipline is administered in a manner consistent with the child's human dignity and in conformity with the Convention.

UN Convention on the Rights of the Child

Students have a duty to cooperate fully with all persons employed by the school board. Students also have the duty to:

- attend school regularly and punctually,
- purchase any necessary supplies;
- observe standards of cleanliness, general deportment, obedience, courtesy and rights of other persons;
- be diligent in studies;
- conform to the rules of the school; and
- submit to any discipline as would be exercised by a kind, firm and judicious parent.

Students are accountable to their teachers and principal for their own conduct during school hours (including travelling to and from school) or during school activities outside of school hours.

Generally, English is the language of instruction unless Boards of Education in the jurisdiction pass a resolution. French is the language of instruction in Fransaskois schools.

A school keeps school records with information such as school attendance. Pupil records are personal information within the meaning of *The Local Authority of Freedom of Information and Protection of Privacy Act*. The records can be disclosed to the pupil or to the parent or guardian (if the pupil is under 18 years of age). Records can be disclosed to other persons only where authorized by the legislation.

Sexual Offences

The *Criminal Code* of Canada provides protection of children from sexual interference, sexual assault and sexual behaviours that may harm the child emotionally, psychologically or physically.

Sexual Behaviour

The *Criminal Code* addresses the specific violations and penalties involved if the parties are under 18 and involved in sexual behaviour. Part V of the *Criminal Code* addresses sexual offences. Children under the age of 14 cannot consent to any sexual conduct.

However, two consenting young people are not prohibited from participating in sexual behaviour together provided they are:
(i) older than 12 but younger than 16;
(ii) less than two years apart in age; and
(iii) neither is in a position of responsibility such as a babysitter.

Sexual Interference

It is an offence to touch for sexual purpose, either directly or indirectly, a person under the age of 14. That is considered sexual interference. The only exception is as noted above with two consenting young people. It is also an offence to invite or entice a person under the age of 14 to touch another person's body.

Social Rights

Persons under the age of 18 do not have a right to vote, nor can they be candidates in an election (*The Election Act, 1996* S.S. 1996 c. E-6.01).

Where a person who appears to be under 19 is present in licensed premises or is attempting to purchase alcohol, proof of age may be demanded. If the individual fails to provide proof of age the individual may be removed from the premises or denied the purchase. A person under 19, who purchases or attempts to purchase, who possesses or presents false identification, is guilty of an

offence (*The Alcohol and Gaming Regulation Act*, S.S. 1988-89 c. A-18.01).

A person cannot directly or indirectly sell or give a tobacco product to a person under 18 years. The person under 18 shall not permit the sale or delivery of cigarettes to him or her. (*Tobacco Act*, S.C., 1997, c. 13).

All drivers in the province must have a drivers license. A person must be at least 16 years old to obtain a drivers license although a 15 year old may have a learners license if he or she meets the criteria.

Likewise, no person under 16 shall operate an all terrain vehicle unless:

- on land owned or occupied by his or her immediate family,
- over 12 and supervised by person who has had a drivers license for at least one year or has successfully completed training to operate an all terrain vehicle, or
- is driving on a race track or trail on private land during an event approved by the Highway Traffic Board.

Municipalities in the province have powers to make by-laws to regulate society, such as the establishment of a curfew. They could require that minors not be in a public place at night without proper guardianship. For example, a by-law would regulate the time at which a child is required to be at home.

Urban municipalities may also regulate minors selling or bartering at second hand shops, pawnshops, etc. Minors are not generally held responsible for contracts they complete; unless they

are necessaries and are sold and delivered to a minor who must pay a reasonable price.

According to *The Wildlife Act, 1997* S.S. 1997 c. W-13.11 no person under 12 can purchase a hunting license. If between 12 and 16 years of age, parents consent is needed to obtain a license. First time hunters of any age must successfully complete a firearm safety/hunter education course.

Because young people are unable to be bound by contract and accept liabilities unless it is for necessaries of life, they are unable to participate on boards. For example, under *The Credit Union Act, 1985* S.S. 1984-1985-86 c. C-45.1 an individual must be 18 years of age to be eligible to be a director and no individual under 16 is entitled to vote. Under *The Rural Municipality Act, 1989* a person must be at least 18 to qualify for nomination as a reeve or councillor.

Children's status before the Law and Responsibilities to Society

Children have rights and responsibilities under Canadian law as all citizens do. Under *The Saskatchewan Evidence Act* R.S.S. 1978 c. S-16 a witness under the age of 14 must understand the nature of an oath and be able to communicate the evidence before he or she is permitted to testify. When the witness is under 18, the Act protects the individual's vulnerability. If it would assist in obtaining a full and candid account of the event, the judge may order the witness to testify behind a screen or outside of the court room altogether. As well, if the witness was under 18 at the time the events occurred, a video tape, made within a reasonable time after the events occurred, is

admissible provided the witness adopts the content of the video tape.

The Saskatchewan Evidence Act applies to civil proceedings, including child protection. The *Canada Evidence Act* provides similar protection for criminal proceedings.

Criminal Status

In 1984 the *Juvenile Delinquents Act* was replaced by the *Young Offenders Act*. Since the *Young Offenders Act*, the state only becomes involved with children under 12 through general police activity to prevent a breach of the peace and under child protection laws. Police or social workers may alert parents to the problems or the children may be found to be in need of protection services because of their offending under *The Child and Family Services Act* legislation.

Children 14 and over, but under the age of 18, can be raised to adult court. In some circumstances there is a presumption to raise the youth to adult court.

Generally, children 12 to 18 years have the right to a ban on publishing their name or identifying information. However, there are circumstances where the ban may be lifted, such as where an adult sentence is imposed, there is a presumptive transfer to adult court or where there is a dangerous youth at large.

Services for young people are designed to hold youth accountable and to assist young persons who have or are alleged to have committed offences to reform their activities. The services include such things as alternative measures and preventative or

educational programs for persons under 18 who are at risk of becoming young offenders. For youth convicted of an offence, the services also include community and custodial services.

Youth workers may be appointed to administer youth sentences. Where a young person is placed in open custody, the provincial director may authorize temporary release for certain purposes. The young person may be arrested without warrant and returned to custody where the provincial director revokes the release or the young person fails to comply with a condition of his or her release.

A young person may be taken into custody pursuant to section 52 of *The Summary Offences Procedure Act 1990*, S.S. 1990-91 c. S-63.1 for intoxication due to the use of alcohol where if not detained, he or she will likely cause injury to himself or herself or others and there is no other person capable and willing to take care of the young person. Where practicable, the young person shall be held separate and apart from an adult in custody.

Civil Responsibility

Generally children under the age of 18 are not liable for any contract entered. However, under *The Sale of Goods Act* where necessaries are sold and delivered to a minor, he or she must pay a reasonable price. A place to live is considered a necessary so a person under 18 can be bound by a lease to rent property.

Children's Responsibilities to Parent

Children have minimal responsibilities to the parents. Under *The Parent's Maintenance Act* R.S.S. 1978 c. P-1, a parent is deemed dependent when he or she is unable to maintain himself or herself. A son or daughter is then liable for support for his or her parent as the Act requires at $20 per week.

Article 2

1. States parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure the child is protected against all forms of discrimination or punishment on the basis of status, activities, expressed opinions or believes of the child's parents, legal guardians or family members.

UN Convention on the Rights of the Child

Protection of Children's Rights

There are agencies in Saskatchewan that serve to protect peoples' rights: the Office of the Ombudsman, the Saskatchewan Human Rights Commission and the Children's Advocate. *The Saskatchewan Human Rights Code* prohibits discriminatory practices in employment, housing, public services, education and other public areas of life. It prohibits discrimination on the basis of race, creed, religion, colour, sex (including sexual harassment and pregnancy discrimination), sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin or receipt of public assistance.

Children and young people have the same protection under the Code as adults. However, the age protection is limited because 'age' is defined as meaning any age of eighteen or older but younger than sixty-five.

The Children's Advocate is appointed by the Legislative Assembly to promote the interests of Saskatchewan children and youth and to ensure the rights of children and youth are respected and valued in our communities and government.

The Children's Advocate is directed to provide public education respecting the interests of children. The Children's Advocate will review and investigate any matter that comes to his or her attention from any source, including a child or groups of children receiving services from a department or agency of the provincial government. The Children's Advocate may try to resolve the issue or can make recommendations about the issue. A report of the results of the review or the investigation done by the Children's Advocate may be given to the parents and to the child.

To best protect children, they must be able to communicate with the Children's Advocate. Where a child in a foster home, group home or facility asks to communicate with the Children's Advocate, verbally, or in writing the request shall immediately go to the Children's Advocate, if in writing, unopened.

Conclusion

This overview of rights and responsibilities was intended to signify the importance of the 10th Anniversary of the UN Convention on the Rights of the Child. It also responds to a request that arose from the Saskatchewan Council on Children in their 1998 report.

The UN Convention acknowledges the need of children and youth to be connected with society and their family in order to ensure full, harmonious development. They need to learn to make decisions and bear responsibilities as they mature so they are fully prepared to live as healthy, contributing individuals in society. Saskatchewan legislation

reflects the rights and responsibilities for children and their parents to encourage participation in society and promote resilient children.

Children and families are a priority for the government of Saskatchewan reflected in the Saskatchewan Action Plan for Children. The Action Plan promotes and sustains an emphasis on issues and encourages action across human service sectors and government departments.